



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,113	10/22/2001	Mark W. Paulsen	P02248US2	5983

22885 7590 01/29/2003

MCKEE, VOORHEES & SEASE, P.L.C.  
801 GRAND AVENUE  
SUITE 3200  
DES MOINES, IA 50309-2721

EXAMINER

PETRAVICK, MEREDITH C

ART UNIT	PAPER NUMBER
----------	--------------

3671

DATE MAILED: 01/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/037,113

Applicant(s)

PAULSEN, MARK W.

Examiner

Meredith C Petravick

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 November 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 05 November 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION*****Drawings***

1. The corrected or substitute drawings were received on 12/5/02. These drawings are accepted.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 31-36 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention.

The table below contains claim limitations that are new matter and descriptions of the elements of the limitation from the specification. The claim limitations are different from what is described in the specification. Therefore, these limitations are new matter. New matter cannot be added to the specification.

Claim Limitation	Specification
"A frame of less than approximately six feet";  claim 31, line 2	"As shown in Fig. 5, a frame 40 is comprised of two 10 inch tall by $\frac{3}{4}$ inch wide by approximately 3-foot long rails 42 held parallel by cross-bar 44" (page 12, line 1-3) and "Thus, frame 40, approximately 3-foot long, extends

Art Unit: 3671

	the length of the original baler 18  approximately 3 feet, but allows an extension of the PTO shaft 36 as mentioned.” (page 12, line 15-18)
“each wheel of at least thirty-six inches” (claim 31, line 19 and claim 35, line 9)	“rake wheels 26 (approx. 4 feet in diameter)” (page 11, line 2) and “Rake wheels 26 are approximately 48 inches in diameter.” (page 11, line 18)
“wheel rake, frame being less than 8 feet wide” claim 31, line 25	“For example, wing members 22 and 24 of rake 20 are approximately six foot in length.” (page 11, lines 16-17)
“the wheels of the wheel rake at least two feet off the ground” claim 31, line 26	Not mentioned at all in the specification.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 depends from claim 2, which was canceled. Therefore, it is impossible to tell what applicant is trying to claim, and claim 3 has not been treated on the merits.

Art Unit: 3671

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 4-5, 8-20, 22-25 and 28-38 rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis 5,404,702 in view of Sligter 4,183,198.

Lewis discloses a rake attachment on a PTO-drive large bale baler (23) including:

- a frame (60) having a front end and a rear end along a longitudinal axis
- a passageway between the front and rear ends for a PTO shaft (Column 4, lines 27-29)
- the front end including a hitch (65, Column 4, lines 27-29) for connection to a tractor
- the rear end including a connection to a large baler (Column 4, lines 24-27)
- arms (Fig. 1) attached to the frame member for supporting rakes
- an actuator (lift mechanism 10, Columns 5, lines 7-9) operably connected between the frame and rake arm for moving the rakes between a working and stored position

In the detailed description Lewis describes attaching powered wheel rakes to the arms instead of non-powered, wheel rakes as claimed. However, Lewis also states, "Since the "base" of the invention is the frame, this portion of the apparatus will be described first. It is also anticipated that the "base" or extension frame will be manufactured and generally sold without

Art Unit: 3671

windrow rakes. This is because most farmers will have hay rakes that can be attached to the extension frame and they will want to use existing equipment. (Column 4, lines 4-10)”

Therefore, even though Lewis does not specifically describe in detail attaching non-powered, wheel rakes to the frame, Lewis teaches that any type of hay rake can be attached to the frame.

Slitger discloses non-powered wheel rakes, which are a type of commonly known hay rakes. The wheel rakes (30) are attached to arm (3) by an adjustable mounting (Column 1, lines 49-52). The wheel rakes are suspended from the beam so the wheel rakes move over a range independently from the frame in the working position (Column 1, lines 41-43).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the rakes of Lewis non-powered wheel rakes as in Slitger since Lewis suggests that any type of hay rakes

In regards to claims 10-12, the combination discloses the claimed device except for the angle of the rake arms to the frame being between 20-60 degrees, 35-50 degrees, and 45 degrees. The angle of the rake arms to the frame is a design choice that depends on the width of the material being raked. Note that the specification states, “Also, it is to be understood that the size and operating width of the rake 20 can vary by design.(page 20, lines 6-7)”

In regards to claims 31 and 35, the dimensions of the frame, wheel rakes, wheel rake frame, and the height of the wheel rake above the ground in the transport position are obvious design choices. No criticality is given in the specification.

8. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis in view of Slitger as applied to claim 1 above, and further in view of Kelderman 5,155,986.

Art Unit: 3671

The combination of Lewis and Slitger discloses the claimed device except for using bolts on the rear connection member in order to secure the baler to the rake attachment.

Kelderman discloses that it is known in the art to use bolts (67) to secure two items together (Column 5, line 28).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to connect the frame to the baler in the combination of Lewis and Slitger with bolts as in Kelderman, in order to secure the frame to the baler.

9. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis in view of Slitger as applied to claim 18 above, and further in view of Kuehn 4,947,631

Lewis discloses the claimed device except for mounting means that allow the rake wheels to adjust the width of the rake means and the height of the rake wheels according to the operating conditions.

Kuehn discloses that it is known in the art to provide means to adjust the height of the wheel rake (column 3, lines 24-26).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the rake attachment of the combination of Lewis and Slitger with the means for adjusting the height of the rake wheel as disclosed in Kuehn, in order to adjust the rake for varying operating conditions.

10. Claim 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis in view of Slitger as applied to claim 25 above, and further in view of Trenkamp et al., 5,052,170 .

Art Unit: 3671

Lewis discloses the claimed device except for a shredder being attached to the baler.

Trenkamp et al. discloses that it is known in the art to attach a shredder (10) to the front of a baler in order to process crops in one pass (abstract, lines 16-19).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the baler of the combination of Lewis and Sligter with the shredder attachment of Trenkamp et al., in order to further process the crops in a single pass on the field.

### *Response to Arguments*

11. Applicant's arguments filed 11/5/02 have been fully considered but they are not persuasive.

In the amendment filed 11/5/02, applicant amended all pending independent claims, canceled claim 2, and added claims 31-38. In response to these amendments, the claims are now rejected as detailed above. Also, applicant argues: 1) that Lewis does not disclose a raised storage position for the wheel rakes 2) that the wheel rakes are raised by actuation and 3) that the wheel rakes can be raised on the fly.

In response to applicant's first and second argument, the rakes of Lewis are raised by actuation. Lewis states, "When the rakes are out of service, for transporting the baler from one place to another, they are stored on a lift frame which is attached to the extension frame. The lift frame has a pair of chains that hook onto the distal end of each rake. The lift frame is **raised** and lowered by a lift cylinder which uses hydraulic power from the tractor and whose controller is located on the extension frame. (column 2, line 67 to column 3, line 6)" (emphasis added)



Art Unit: 3671

In response to applicant's argument third argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., on the fly actuation) are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Therefore, the claims remain rejected.

### ***Conclusion***

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

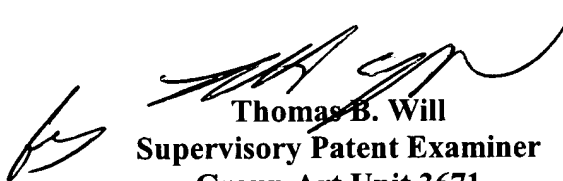
Art Unit: 3671

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meredith Petravick whose telephone number is 703-305-0047.

The examiner can normally be reached on Monday-Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 703-308-3870.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 703-305-3597.

  
Thomas B. Will  
Supervisory Patent Examiner  
Group Art Unit 3671

MCP  
January 24, 2002